

EMPLOYMENT RELATIONS BOARD

OF THE

STATE OF OREGON

Case No. MA-3-04

(MANAGEMENT SERVICE REMOVAL/CLASSIFIED SERVICE DISMISSAL)

CARY A. GREENWOOD,	)	
	)	
Appellant,	)	ORDER DENYING
	)	RESPONDENT'S MOTION
v.	)	FOR RECONSIDERATION
	)	
OREGON DEPARTMENT OF FORESTRY,	)	
	)	
Respondent.	)	
_____	)	

On July 19, 2006, this Board ordered Respondent to reinstate Appellant Greenwood to an appropriate position in classified service. We further directed Respondent to make Appellant whole "from April 13, 2004 until she is reinstated, including back pay and benefits based on the classified position to which she is restored, plus interest at the legal rate from the date the pay became owing, minus interim earnings."

On August 2, 2006, Respondent filed this Motion for Reconsideration, seeking a determination that "in addition to a reduction for interim earnings, Ms. Greenwood's back pay award should be reduced by the unemployment benefits she received and for the period of time during which Ms. Greenwood was unavailable for work." Respondent alleged that Ms. Greenwood received unemployment benefits which were wholly paid by the State, and that "[f]rom correspondence that Ms. Greenwood provided to the Board, it appears Ms. Greenwood entered the master's degree program [at the University of Oregon] sometime after the hearing in this matter." Respondent does not refer to the record in support of its contentions. In fact, these matters are not part of the record.

On this basis, we deny reconsideration and adhere to our former order. We cannot consider matters which are outside the record in deciding cases. *Arlington Education Association v Arlington School District No. 3*, 177 Or App 658, 34 P3d 1197 (2001), *rev den* 333 Or 399, 42 P3d 1243, 1244 (2002). This rule applies equally to our decisions on reconsideration. The State has not sought to reopen the record to introduce evidence in support of its allegations. We would ordinarily deny such a request in any event.

The questions raised by the State are more properly pursued in Employment Relations Board compliance proceedings. There, Respondent may seek clarification of its obligations to Ms. Greenwood. The parties may, for instance, introduce evidence regarding the amount of unemployment compensation Ms. Greenwood received, and who paid it, as well as whether her attendance at graduate school had the effect, as the State alleges, of removing her from the work force. Under the circumstances of this case, any compliance proceedings would be heard directly by this Board.

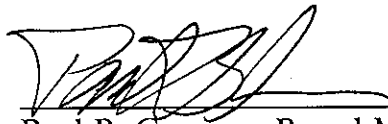
ORDER

Respondent's Motion for Reconsideration is denied.

DATED this 27<sup>th</sup> day of September 2006.

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Donna Sandoval Bennett, Chair



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Paul B. Gamson, Board Member



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James W. Kasameyer, Board Member

This Order may be appealed pursuant to ORS 183.482.

\*Chair Bennett is recused from this matter.